IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Misc. Nos.24640-41 of 2004 and
C.E.C. No. 39 of 2004(O&M)
Date of decision:16.10.2006

Commissioner of Central Excise Commissionerate ..Petitioner

Versus

M/S Jamna Auto Industries Ltd. ...Respondent

CORAM: HON'BLE MR.JUSTICE ADARSH KUMAR GOEL
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Gurpreet Singh, Central Government Standing Counsel for the applicant.

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JUDGMENT

This petition has been filed seeking a reference of the question of law arising out of the order of the Custom, Excise and Gold (Control) Appellate Tribunal, (CEGAT), New Delhi now known as the Central Excise and Service Tax Appellate Tribunal (CESTAT).

There is delay of 1125 days in filing of the Reference Petition. In the application for condonation of delay, it is stated that the order of the Tribunal is dated 11.10.2000, which was received by the applicant on 25.10.2000 and was handed over to counsel for filing the Reference Petition in the High Court of Delhi on 6.3.2001. The Reference Petition was filed on 15.3.2001 within time. On 16.4.2003, counsel informed the department that petition was under objection in the Registry of the High Court. On 1.4.2004 counsel informed the department that the petition was required to be filed in the High Court of Punjab and Haryana at Chandigarh. Thereafter, the petition was filed in this Court on 21.5.2004.

In view of the above, delay is sought to be condoned on the ground of pursuing other remedy under a bonafide belief. It is not shown how the period of delay was spent in pursuing other remedy by bonafide belief when the case was never listed before the High Court of Delhi. No proceedings of the case in Delhi High Court have been placed on record. Even taking a liberal view, inordinate delay of 1125 days in filing the petition in this Court cannot be held to be for reasons beyond the control of the applicant for any sufficient cause. The matter appears to have been pursued in reckless and negligent manner. There is also delay of 106 days in refiling the petition for which also we find no cogent explanation. The petition is, therefore, dismissed on the ground of delay itself.

(Adarsh Kumar Goel)
Judge

October 16 ,2006 **(Rajesh Bindal)**
Pka **Judge**